

**Executive Summary – Enforcement Matter – Case No. 46028  
LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE  
CORPORATION  
RN101201960  
Docket No. 2013-0139-PWS-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

**Media:**

PWS

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Paradise Acres Water System, located at the intersection of Farm-to-Market Road 356 and Lakeshore North, Polk County

**Type of Operation:**

Public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** August 2, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$1,464

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$1,464

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - N/A

Site/RN - N/A

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002 and September 2011

**Executive Summary – Enforcement Matter – Case No. 46028**  
**LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE**  
**CORPORATION**  
**RN101201960**  
**Docket No. 2013-0139-PWS-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** December 4, 2008, December 11, 2008, August 16, 2012, and November 26, 2012

**Date(s) of NOE(s):** September 30, 2012 and December 22, 2012

***Violation Information***

1. Failed to provide two or more wells having a total capacity of 0.37 gallons per minute ("gpm") per connection as required by the approved alternate capacity requirements [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(i)].
2. Failed to flush all dead-end mains at monthly intervals or more often as needed if water quality complaints are received from water customers or if disinfectant residuals fall below acceptable levels [30 TEX. ADMIN. CODE § 290.46(l)].
3. Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter for total trihalomethanes ("TTHM") based on the running annual average [30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require Respondent to:

- a. Within 60 days, begin flushing all dead-end mains at monthly intervals or more often as needed if water quality complaints are received from water customers or if disinfectant residuals fall below acceptable levels and begin maintaining monthly flushing records;
- b. Within 75 days, submit written certification demonstrating compliance with Ordering Provision a.;
- c. Within 180 days, provide a minimum well production capacity of 0.37 gpm per connection;
- d. Within 195 days, submit written certification demonstrating compliance with Ordering Provision c.;

**Executive Summary – Enforcement Matter – Case No. 46028**  
**LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE**  
**CORPORATION**  
**RN101201960**  
**Docket No. 2013-0139-PWS-E**

e. Within 365 days, return to compliance with the running annual average MCL for TTHM; and

f. Within 380 days, submit written certification demonstrating compliance with Ordering Provision e.;

In lieu of completing Ordering Provisions c. through f.:

g. Within 90 days, submit to the Executive Director for review and approval an engineering plan and schedule which includes but is not limited to, the construction designed to provide adequate well production capacity and to achieve compliance with the MCL for TTHM.

h. Within 105 days:

i. Submit written certification demonstrating compliance with Ordering Provision g.; and

ii. Begin implementing the approved engineering plan and schedule, including but not limited to the construction designed to provide adequate well production capacity and to achieve compliance with the MCL for TTHM.

i. Within 180 days, and on a quarterly basis thereafter, submit progress reports to the TCEQ. These reports shall include information regarding actions taken by the Respondent towards completion of the corrective actions designed to provide adequate well production capacity and to achieve compliance with the MCL for TTHM;

j. Within 720 days, submit written certification demonstrating the completion of construction designed to provide adequate well production capacity and that a minimum well production capacity of 0.37 gpm per connection is being provided;

k. Within 1,085 days, return to compliance with the running annual average MCL for TTHM; and

l. Within 1,110 days, submit written certification demonstrating compliance with Ordering Provision k.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Executive Summary – Enforcement Matter – Case No. 46028  
LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE  
CORPORATION  
RN101201960  
Docket No. 2013-0139-PWS-E**

**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Katy Montgomery, Enforcement Division,  
Enforcement Team 2, MC R-13, (210) 403-4016; Candy Garrett, Enforcement Division,  
MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** N/A

**Respondent:** Doyle G. LaGow, Director, LAKE LIVINGSTON WATER SUPPLY AND  
SEWER SERVICE CORPORATION, P.O. Box 1149, Livingston, Texas 77351

Mary Massie, Treasurer, LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE  
CORPORATION, P.O. Box 1149, Livingston, Texas 77351

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	8-Oct-2012	<b>Screening</b>	24-Oct-2012	<b>EPA Due</b>	30-Sep-2011
	<b>PCW</b>	25-Jan-2013				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION		
<b>Reg. Ent. Ref. No.</b>	RN101201960		
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b>	Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	46028	<b>No. of Violations</b>	1
<b>Docket No.</b>	2013-0139-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Katy Montgomery
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>		\$50	<b>Maximum</b>
			\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$250**

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **22.0%** Enhancement **Subtotals 2, 3, & 7** **\$55**

**Notes** Enhancement for four NOVs with same/similar violations and one NOV with dissimilar violations.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** **\$0**

**Notes** The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$0**

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts **\$1,807**  
Approx. Cost of Compliance **\$5,000**  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$305**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount** **\$305**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$305**

**DEFERRAL** **0.0%** Reduction **Adjustment** **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** **\$305**

Screening Date 24-Oct-2012

Docket No. 2013-0139-PWS-E

PCW

LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE

Respondent CORPORATION

Case ID No. 46028

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101201960

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	4	20%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 22%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for four NOVs with same/similar violations and one NOV with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 22%

Screening Date 24-Oct-2012

Docket No. 2013-0139-PWS-E

PCW

Respondent LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 46028

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101201960

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.45(b)(1)(D)(i)

Violation Description

Failed to provide two or more wells having a total capacity of 0.37 gallons per minute ("gpm") per connection as required by the approved alternate capacity requirement. Specifically, at the time of the investigation, it was documented that the Facility serves 423 connections and is required to provide a well production capacity of 156.51 gpm. However, the Facility currently provides a well production capacity of 83 gpm, which is a 46.97% deficiency.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Major	Moderate	Minor
Release			
Actual			
Potential		x	

Percent 25%

## &gt;&gt; Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0%

Matrix Notes

Failure to provide adequate well production capacity may lead to water shortages or outages which could expose customers of the Facility to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$750

\$250

## Violation Events

Number of Violation Events 1

69 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$250

One quarterly event is recommended, calculated from the investigation date, August 16, 2012, to the screening date, October 24, 2012.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$250

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$1,807

Violation Final Penalty Total \$305

This violation Final Assessed Penalty (adjusted for limits) \$305

## Economic Benefit Worksheet

**Respondent** LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION  
**Case ID No.** 46028  
**Reg. Ent. Reference No.** RN101201960  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$5,000	4-Dec-2008	31-Jan-2014	5.16	\$86	\$1,721	\$1,807
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to rehabilitate the well in order to provide a minimum well production capacity of 0.37 gpm, calculated from the investigation date initially documenting the violation to the estimated date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

**TOTAL**

\$1,807





# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	8-Oct-2012	<b>Screening</b>	24-Oct-2012	<b>EPA Due</b>	30-Sep-2011
	<b>PCW</b>	25-Jan-2013				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION		
<b>Reg. Ent. Ref. No.</b>	RN101201960		
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b>	Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	46028	<b>No. of Violations</b>	1
<b>Docket No.</b>	2013-0139-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Katy Montgomery
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>		\$50	<b>Maximum</b>
			\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$150**

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **22.0%** Enhancement **Subtotals 2, 3, & 7** **\$33**

Notes: Enhancement for four NOVs with same/similar violations and one NOV with dissimilar violations.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$0**

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts: \$41  
Approx. Cost of Compliance: \$750  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$183**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$183**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$183**

**DEFERRAL** **0.0%** Reduction **Adjustment** **\$0**

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** **\$183**

Screening Date 24-Oct-2012

Docket No. 2013-0139-PWS-E

PCW

Respondent LAKE LIVINGSTON WATER SUPPLY AND SEWER  
SERVICE CORPORATION

Policy Revision 3 (September 2011)

Case ID No. 46028

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101201960

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

**Compliance History Worksheet**

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	4	20%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 22%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for four NOVs with same/similar violations and one NOV with dissimilar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 22%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 22%

Screening Date 24-Oct-2012

Docket No. 2013-0139-PWS-E

PCW

Respondent LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION

Policy Revision 3 (September 2011)

Case ID No. 46028

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101201960

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.46(l)

Violation Description

Failed to flush all dead-end mains at monthly intervals or more often as needed if water quality complaints are received from water customers or if disinfectant residuals fall below acceptable levels.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Major	Harm Moderate	Minor
Release Actual			
Potential		x	

Percent 15.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to flush all dead-end mains monthly, or more often to maintain acceptable water quality, could result in the customers of the Facility becoming exposed to a significant amount of contaminants, which would not exceed levels that are protective of human health or the environment.

Adjustment \$850

\$150

## Violation Events

Number of Violation Events 1

69 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$150

One quarterly event is recommended, calculated from the investigation date, August 16, 2012, to the screening date, October 24, 2012.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$150

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$41

Violation Final Penalty Total \$183

This violation Final Assessed Penalty (adjusted for limits) \$183

# Economic Benefit Worksheet

**Respondent** LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION

**Case ID No.** 46028

**Reg. Ent. Reference No.** RN101201960

**Media** Public Water Supply

**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$750	16-Aug-2012	31-May-2013	0.79	\$2	\$39	\$41
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

The delayed cost includes the estimated amount to begin a routine monthly dead-end main flushing program, calculated from the date of the investigation to the estimated date of compliance.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$750

**TOTAL**

\$41



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b> 17-Dec-2012	<b>PCW</b> 25-Jan-2013	<b>Screening</b> 15-Jan-2013	<b>EPA Due</b> 30-Sep-2011
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## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION		
<b>Reg. Ent. Ref. No.</b>	RN101201960		
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b>	Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	46028	<b>No. of Violations</b>	1
<b>Docket No.</b>	2013-0139-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Katy Montgomery
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$500</b>
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	22.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$110</b>
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<b>Notes</b>	Enhancement for four NOVs with same/similar violations and one NOV with dissimilar violations.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$1,226
Approx. Cost of Compliance	\$5,000

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$610</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	<b>\$610</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$610</b>
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	No deferral is recommended for Findings Orders.
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<b>PAYABLE PENALTY</b>	<b>\$610</b>
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Screening Date 15-Jan-2013

Docket No. 2013-0139-PWS-E

PCW

Respondent LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE

Case ID No. 46028

Policy Revision 2 (September 2002)

Reg. Ent. Reference No. RN101201960

PCW Revision October 30, 2008

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

**Compliance History Worksheet**

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	4	20%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 22%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

**Adjustment Percentage (Subtotal 3)** 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

**Adjustment Percentage (Subtotal 7)** 0%

## &gt;&gt; Compliance History Summary

**Compliance History Notes**

Enhancement for four NOVs with same/similar violations and one NOV with dissimilar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 22%



Screening Date 15-Jan-2013

Docket No. 2013-0139-PWS-E

PCW

Respondent LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE

Policy Revision 2 (September 2002)

Case ID No. 46028

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101201960

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.113(f)(4) and Tex. Health &amp; Safety Code § 341.0315(c)

Violation Description

Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on the running annual average. Specifically, at the time of the record review, it was documented that the running annual average concentration for TTHM was 0.089 mg/L for the first quarter of 2011, 0.091 mg/L for the second quarter of 2011, 0.104 mg/L for the third quarter of 2011, and 0.118 mg/L for the fourth quarter of 2011.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 50%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Exceeding the MCL for TTHM caused the customers of the Facility to be exposed to significant amounts of contaminants which did not exceed levels protective of human health.

Adjustment \$500

\$500

## Violation Events

Number of Violation Events 1

364 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	x
	single event	

Violation Base Penalty \$500

One annual event is recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$500

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$1,226

Violation Final Penalty Total \$610

This violation Final Assessed Penalty (adjusted for limits) \$610

## Economic Benefit Worksheet

**Respondent** LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION  
**Case ID No.** 46028  
**Reg. Ent. Reference No.** RN101201960  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	31-Mar-2011	30-Sep-2014	3.50	\$58	\$1,168	\$1,226
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount for the Facility to implement an alternative form of disinfection, calculated from the last day of the first quarter of noncompliance to the estimated date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

**TOTAL**

\$1,226





# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	17-Dec-2012			
	<b>PCW</b>	25-Jan-2013	<b>Screening</b>	15-Jan-2013	<b>EPA Due</b> 30-Sep-2011

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION				
<b>Reg. Ent. Ref. No.</b>	RN101201960				
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b>	Major		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	46028	<b>No. of Violations</b>	1
<b>Docket No.</b>	2013-0139-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Katy Montgomery
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$300
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	22.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$66
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**Notes** Enhancement for four NOV's with same/similar violations and one NOV with dissimilar violations.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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**Notes** The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$0  
Approx. Cost of Compliance \$0  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$366
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

<b>Final Penalty Amount</b>	\$366
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$366
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$366
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Screening Date 15-Jan-2013

Docket No. 2013-0139-PWS-E

PCW

Respondent LAKE LIVINGSTON WATER SUPPLY AND SEWER

Case ID No. 46028

Policy Revision 3 (September 2011)

Reg. Ent. Reference No. RN101201960

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

PCW Revision August 3, 2011

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	4	20%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 22%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for four NOVs with same/similar violations and one NOV with dissimilar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 22%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 22%

Screening Date 15-Jan-2013

Docket No. 2013-0139-PWS-E

PCW

Respondent LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE

Case ID No. 46028

Policy Revision 3 (September 2011)

Reg. Ent. Reference No. RN101201960

PCW Revision August 3, 2011

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.113(f)(4) and Tex. Health &amp; Safety Code § 341.0315(c)

Violation Description

Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on the running annual average. Specifically, at the time of the record review, it was documented that the running annual average concentration for TTHM was 0.122 mg/L for the first quarter of 2012, 0.121 mg/L for the second quarter of 2012, and 0.119 mg/L for the third quarter of 2012.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Major	Harm Moderate	Minor
Actual		X	
Potential			

Percent 30.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Exceeding the MCL for TTHM caused the customers of the Facility to be exposed to significant amounts of contaminants which did not exceed levels protective of human health.

Adjustment \$700

\$300

## Violation Events

Number of Violation Events 1

273 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	X
single event	

Violation Base Penalty \$300

One annual event is recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Extraordinary

Before NOV NOV to EDPRP/Settlement Offer

Ordinary

N/A

X (mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$300

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$366

This violation Final Assessed Penalty (adjusted for limits) \$366

## Economic Benefit Worksheet

**Respondent** LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION  
**Case ID No.** 46028  
**Reg. Ent. Reference No.** RN101201960  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs of compliance are captured in the Economic Benefit for Violation No. 2 in the Revision 2 PCW for public drinking water violations.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

**TOTAL**

\$0

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



## TCEQ Compliance History Report

**PUBLISHED** Compliance History Report for CN600623029, RN101201960, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN600623029, LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION **Classification:** NOT APPLICABLE **Rating:** N/A

**Regulated Entity:** RN101201960, PARADISE ACRES WATER SYSTEM **Classification:** NOT APPLICABLE **Rating:** N/A

**Complexity Points:** N/A **Repeat Violator:** N/A

**CH Group:** 14 - Other

**Location:** AT THE INTERSECTION OF FARM-TO-MARKET ROAD 356 AND LAKESHORE NORTH, POLK COUNTY, TEXAS

**TCEQ Region:** REGION 10 - BEAUMONT

**ID Number(s):**  
**PUBLIC WATER SYSTEM/SUPPLY REGISTRATION** 1870076 **WATER LICENSING LICENSE** 1870076

**Compliance History Period:** September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

**Date Compliance History Report Prepared:** January 15, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** January 15, 2008 to January 15, 2013

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**  
**Name:** Katy Schumann **Phone:** (512) 239-2602

### Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

### Components (Multimedia) for the Site are Listed in Sections A - J

**A. Final Orders, court judgments, and consent decrees:**  
N/A

**B. Criminal convictions:**  
N/A

**C. Chronic excessive emissions events:**  
N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**  
N/A

**E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	03/28/2012 (1050539)	CN600623029
	Self Report?	NO	Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: TTHM MCL 4Q2011 - The system violated the maximum contaminant level for trihalomethanes during the 4th quarter of 2011.

- 2      Date: 05/04/2012 (1050539)      CN600623029  
Self Report? NO      Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: TTHM MCL 1Q2012 - The system violated the maximum contaminant level for trihalomethanes during the 1st quarter of 2012.
- 3      Date: 05/09/2012 (996222)      CN600623029  
Self Report? NO      Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)  
Description: Failure to maintain the distribution lines in a water tight condition.
- 4      Date: 08/21/2012 (1050539)      CN600623029  
Self Report? NO      Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: TTHM MCL 2Q2012 - The system violated the maximum contaminant level for trihalomethanes during the 2nd quarter of 2012.
- 5      Date: 09/25/2012 (1050539)      CN600623029  
Self Report? NO      Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: TTHM MCL 3Q2012 - The system violated the maximum contaminant level for trihalomethanes during the 3rd quarter of 2012.

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



<b>IN THE MATTER OF AN</b>	<b>§</b>	<b>BEFORE THE</b>
<b>ENFORCEMENT ACTION</b>	<b>§</b>	
<b>CONCERNING</b>	<b>§</b>	
<b>LAKE LIVINGSTON WATER SUPPLY</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>AND SEWER SERVICE</b>	<b>§</b>	
<b>CORPORATION</b>	<b>§</b>	
<b>RN101201960</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>

## **AGREED ORDER DOCKET NO. 2013-0139-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

### **I. FINDINGS OF FACT**

1. The Respondent owns and operates a public water supply located at the intersection of Farm-to-Market Road 356 and Lakeshore North in Polk County, Texas (the "Facility")

LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION  
DOCKET NO. 2013-0139-PWS-E  
Page 2

that has approximately 423 service connections and serves at least 25 people per day for at least 60 days per year.

2. During investigations conducted on December 4, 2008, December 11, 2008, and August 16, 2012, TCEQ staff documented that the Facility serves 423 connections and is required to provide a well production capacity of 156.51 gallons per minute ("gpm"). However, the Facility currently provides a well production capacity of 83 gpm, which is a 46.97% deficiency.
3. During an investigation conducted on August 16, 2012, TCEQ staff documented that the Respondent did not flush all dead-end mains at monthly intervals or more often as needed if water quality complaints are received from water customers or if disinfectant residuals fall below acceptable levels.
4. During a record review conducted on November 26, 2012, TCEQ staff documented that the running annual average concentration for total trihalomethanes ("TTHM") was 0.089 milligrams per liter ("mg/L") for the first quarter of 2011, 0.091 mg/L for the second quarter of 2011, 0.104 mg/L for the third quarter of 2011, 0.118 mg/L for the fourth quarter of 2011, 0.122 mg/L for the first quarter of 2012, 0.121 mg/L for the second quarter of 2012, and 0.119 mg/L for the third quarter of 2012.
5. The Respondent received notice of the violations on October 4, 2012 and December 27, 2012.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to provide two or more wells having a total capacity of 0.37 gpm per connection as required by the approved alternate capacity requirements, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(i).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to flush all dead-end mains at monthly intervals or more often as needed if water quality complaints are received from water customers or if disinfectant residuals fall below acceptable levels, in violation of 30 TEX. ADMIN. CODE § 290.46(I).
4. As evidenced by Findings of Fact No. 4, the Respondent failed to comply with the maximum contaminant level ("MCL") of 0.080 mg/L for TTHM based on the running annual average, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c).



**LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION**  
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5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of One Thousand Four Hundred Sixty-Four Dollars (\$1,464) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the One Thousand Four Hundred Sixty-Four Dollar (\$1,464) administrative penalty.

**III. ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of One Thousand Four Hundred Sixty-Four Dollars (\$1,464) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION, Docket No. 2013-0139-PWS-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
  - a. Within 60 days after the effective date of this Agreed Order, begin flushing all dead-end mains at monthly intervals or more often as needed if water quality complaints are received from water customers or if disinfectant residuals fall below acceptable levels and begin maintaining monthly flushing records, in accordance with 30 TEX. ADMIN. CODE § 290.46;
  - b. Within 75 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.i. below to demonstrate compliance with Ordering Provision No. 2.a.;

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- c. Within 180 days after the effective date of this Agreed Order, provide a minimum well production capacity of 0.37 gpm per connection, as required by 30 TEX. ADMIN. CODE § 290.45;
- d. Within 195 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.i. below to demonstrate compliance with Ordering Provision No. 2.c.;
- e. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average MCL for TTHM, in accordance with 30 TEX. ADMIN. CODE § 290.113; and
- f. Within 380 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.l. below to demonstrate compliance with Ordering Provision No. 2.e.;

In lieu of completing Ordering Provision Nos. 2.c. through 2.f.;

- g. Within 90 days after the effective date of this Agreed Order, submit to the Executive Director for review and approval an engineering plan and schedule which includes but is not limited to, the construction designed to provide adequate well production capacity and to achieve compliance with the MCL for TTHM. The engineering plan and schedule shall be submitted to:

Water Supply Division  
Utilities Technical Review, MC 159  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- h. Within 105 days after the effective date of this Agreed Order:
  - i. Submit written certification as described in Ordering Provision No. 2.l. below to demonstrate compliance with Ordering Provision No. 2.g.; and
  - ii. Begin implementing the approved engineering plan and schedule, including but not limited to the construction designed to provide adequate well production capacity and to achieve compliance with the MCL for TTHM, in accordance with 30 TEX. ADMIN. CODE § 290.45.
- i. Within 180 days after the effective date of this Agreed Order, and on a quarterly basis thereafter, submit progress reports to the TCEQ to the addresses identified in Ordering Provision No. 2.l. These reports shall include information regarding actions taken by the Respondent towards completion of the corrective actions designed to provide adequate well production capacity and to achieve compliance with the MCL for TTHM;

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- j. Within 720 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.l. below to demonstrate the completion of construction designed to provide adequate well production capacity and that a minimum well production capacity of 0.37 gpm per connection is being provided in accordance with 30 TEX. ADMIN. CODE § 290.45;
- k. Within 1,085 days after the effective date of this Agreed Order, return to compliance with the running annual average MCL for TTHM, in accordance with 30 TEX. ADMIN. CODE § 290.113; and
- l. Within 1,110 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.k. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section Manager  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, Texas 77703-1892

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and:

Public Drinking Water Section Manager  
Water Supply Division, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any

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other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

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## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Davis  
For the Executive Director

9/18/13  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION. I am authorized to agree to the attached Agreed Order on behalf of LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Mary Massie  
Signature

6-20-2013  
Date

MARY MASSIE  
Name (Printed or typed)  
Authorized Representative of

Treasurer  
Title

LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.